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7 IN THE UNITED STATES DISTRICT COURT
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9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 MIKE VELASQUEZ,

No. C-09-2670 MMC

12 Plaintiff,

**ORDER DISMISSING COMPLAINT WITH
LEAVE TO AMEND; DEFERRING
RULING ON PLAINTIFF'S APPLICATION
TO PROCEED IN FORMA PAUPERIS**

13 v.

14 AURORA LOAN SERVICES, LLC,

15 Defendant

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17 Before the Court is plaintiff's "Application to Proceed In Forma Pauperis" and
18 "Complaint for Damages Exceeding \$78,000," both filed June 16, 2009.

19 In his complaint, plaintiff, who seeks relief under state law, alleges the Court has
20 diversity jurisdiction over the instant action. In support of his jurisdictional claim, plaintiff
21 alleges he is a citizen of California, and that Aurora Loan Services, LLC ("Aurora") "was
22 formed and created as a Texas corporation" and has its "headquarters" in Texas. (See
23 Compl. ¶ 1.)

24 For purposes of diversity, "an LLC is a citizen of every state of which its
25 owners/members are citizens." See Johnson v. Columbia Properties Anchorage, LP, 437
26 F.3d 894, 900 (9th Cir. 2006). Plaintiff has failed, however, to allege the citizenship of any
27 owner/member of Aurora, let alone that each owner/member of Aurora is a citizen of a
28 state other than California. Under such circumstances, plaintiff has failed to sufficiently

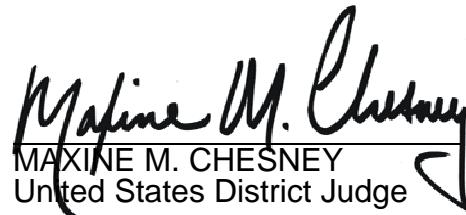
1 allege that a basis for diversity jurisdiction exists, and, consequently, the complaint is
2 subject to dismissal. See Fed. R. Civ. P. 12(h)(3) (providing if court "determines at any
3 time that it lacks subject-matter jurisdiction, the court must dismiss the action").

4 Accordingly, the complaint is hereby DISMISSED, without prejudice to plaintiff's
5 refiling his claims in state court, or, alternatively, to filing, no later than July 17, 2009, a First
6 Amended Complaint in which plaintiff includes sufficient allegations to support a finding that
7 diversity jurisdiction exists.

8 In light of the dismissal of plaintiff's complaint, the Court will defer ruling on plaintiff's
9 application to proceed in forma pauperis until July 17, 2009.

10 **IT IS SO ORDERED.**

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12 Dated: June 26, 2009


MAXINE M. CHESNEY
United States District Judge

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